



IN THE TIME
OF PANDEMIC

**HOW BIG PHARMA BENEFITTED
FROM THE COVID-19 CRISIS,
AND WHY THE TRIPS AGREEMENT
SHOULD BE SCRAPPED**



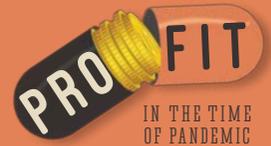
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The world is in dire need of vaccines. Close to two years into the coronavirus crisis, the global death toll has reached 5 million. Deaths are feared to be higher than recorded. Despite expedited development of vaccines for COVID-19, access to them remains limited, especially for low and middle-income countries. The monopoly of big pharmaceutical companies over vaccine production and supply hampers access among poorer nations. More lives are lost, when vaccines could have saved them.

Graver is the fact rich countries cornered 70-80 percent of the global vaccine supply.

On October 2, 2020, the governments of India and South Africa sent a communication proposing to waive the Trade Related Aspect of Intellectual Property Rights (TRIPS) for the prevention, containment and treatment of COVID-19.

On May 21, 2021, delegations from Bolivia, Egypt, India, Indonesia, African groups, Pakistan, Venezuela, and other least developed countries revised the waiver to include the urgency arising from the continuous mutations of the virus, and to add specificity and time frame. They proposed that certain provisions of the TRIPS agreement be waived for the prevention, containment and treatment of COVID-19. The draft waiver proposed to set aside certain sections of Part II and the whole Part III of the TRIPS Agreement. These sections refer to health products and technologies including diagnostics, therapeutics, vaccines, medical devices, personal protective equipment, their materials and components, and their method and means of manufacture.

The proposal received strong opposition from the United Kingdom (UK), Japan, Canada, and other European Union members. It is important to note that the United States, under the Biden Administration, supports the TRIPS waiver negotiation, but not the waiver itself.

The TRIPS waiver is among possible agenda in the upcoming 12th WTO Ministerial Conference in Geneva, Switzerland.

What is the WTO TRIPS?

The WTO Agreement on Trade Related Intellectual Property Rights (TRIPS) is a multilateral agreement on intellectual property rights. Since inception in 1995, it has set the minimum standard of protection — copyright, trademark, geographical indications, industrial design and trade secrets, among other things. Intellectual Property Rights (IPR) are given to persons over the creation of their mind. The IPR generally gives the creator exclusive rights over their creation for a certain period of time¹.

With this type of legitimized protection, Big Pharmas are assured of super profits by virtue of their control over the production and market. Aside from Big Pharma; manufacturing plant owners and other related enterprises; and those directly involved within the vaccine supply chain, be it directly or indirectly, benefit from these exclusive rights.

While originally meant to incentivize new ideas, inventions, and innovations, IPRs today have become a major tool for monopoly. Most notably, Big Pharmas have abused it together with TRIPS to control and monopolize the market, making life-saving medicines less accessible to those who need them.

What provisions of the TRIPS agreement are requested to be waived?

The communication sent by India and South Africa last October 2020 to the WTO requested the council to waive the implementation, application and enforcement of Section 1 (Copyright and Related Rights), 4 (Industrial Design), 5 (Patents) and 7 (Protection of Undisclosed Information) of Part II (Standard Concerning the Availability, Scope and Use of Intellectual Property Rights) of the TRIPS Agreement in relation to prevention, containment or treatment of COVID-19.²

These said sections are designed to protect the ownership of the industrial designs and prevent any parties from producing or reproducing without the consent or authorization from the Big Pharmas or Transnational Corporations (TNCs). Moreover, these are subject to domestic procedures and remedies for the enforcement of IPR³.

Impact of patents and attempts to prevent TRIPS waiver proposal

Uneven accessibility of medical treatment between rich and poor nations is one of the most glaring impacts of the WTO TRIPS Agreement. In recent history, anti-retroviral drugs on HIV/AIDS saved millions of lives in wealthy nations during the 1990s. But the same could not be said for the Global South. In 1998, antiretroviral drugs cost more in South Africa (on an adjusted GDP per capita basis) than in Sweden or even in the US⁶.

In 1998, citing patent laws and the TRIPS agreement, 39 Pharmaceutical Companies sued Nelson Mandela and the South African government. In a callous show of corporate greed, Big Pharmas sought to penalize South African for accessing generic versions of AIDS drugs from abroad. The US government under Clinton, and other European governments backed up the Big Pharma companies⁷. After immense pressure from the international community, the Big Pharma would later withdraw their lawsuit in 2001.

The TRIPS agreement remains to be Big Pharma's primary tool to acquire big profits. Take for example – the prescription drug Lipitor (Atorvastatin Calcium) which lowers cholesterol in the blood. It was patented by Pfizer, launched and commercially available in the US on December 17, 1996. After 15 years of exclusive rights assured by the TRIPS agreement, Pfizer's Lipitor raked in \$125 billion in sales, becoming one of the best-selling drugs in the history of the pharmaceutical industry.

At present, the Big Pharmas quickly reacted against the proposed COVID-19 TRIPS waiver. Anthony Bourla, Pfizer Chairman and CEO said that the proposed waiver will only create more problems than improve the supply situation. He said the waiver "threatens to disrupt the flow of raw materials." Bourla also belittled the capacity of new vaccine manufacturers and claimed that they are "likely to chase the very raw materials we require to scale our production." Pfizer even went as far as insisting that such waiver will put the "safety and security of all at risk,"⁸. Moderna, meanwhile, said that it saw no impact on the accessibility to COVID-19 vaccine, and arrogantly claimed that rivals would face significant hurdles in scaling up manufacturing⁹.

Instead, Big Pharmas demanded that rich countries should simply give more vaccines to poorer countries through COVAX, a public-private initiative created with the help of World Health Organization (WHO) for a more "equitable" vaccine distribution¹⁰. In reality, COVAX has been at the mercy of vaccine producers such



as Moderna which has prioritized bilateral deals with individual countries leaving poorer nations at the end of the queue.

Meanwhile, the European Union (EU) rejected the TRIPS waiver, and claimed that IPR is not the barrier to upscaling the manufacturing of vaccines and other COVID-19 health-related products. The EU, who also temporarily imposed export control on vaccines, further suggested that sharing IPR would not immediately speed up manufacturing.

This argument, however, can easily be debunked by the fact that there already are manufacturers with the capacity to produce Covid-19 vaccines and other health products. Factories in Bangladesh, Canada, Denmark, India, and Israel are capable, but are unable to contribute only because they do not have the proper licenses¹¹. Therefore, the refusal to lift the patents despite the global clamor to increase production, and overcome hindrances to accessibility, all the more exposes the Big Pharma's position to value profit over people's lives.

What provisions of the TRIPS agreement are requested to be waived?

Section 1 on Copyright and Related Rights provides rights protection to creators and expressions (or byproducts) of certain ideas, and not to the ideas, procedures, methods, mathematical equations and the like.

Section 4 on Industrial Design allows copyright-holders to prohibit any third party from the production and distribution of products of the same "design." The protection's duration shall amount to at least 10 years.

Section 5 on Patents provides the patent owner full rights on who to grant permission in "making, using, offering for sale, selling, or importing" the patented product. Patent rights also apply, when we talk about processes, "to the act of using the process, and from the acts of: using, offering for sale, selling, or importing for these purposes at least the product obtained directly by that process." Patent holders will enjoy a minimum of 20 years protection.

Section 7 on the Protection of Undisclosed Information regarding the composition of newly-made products, which includes vaccines, a top secret by the copyright-holder, and are disallowed from public disclosure.⁴

The scope of the Draft Waiver on Sections 1, 4, 5 and 7 of Part II of the TRIPS Agreement is on the health products and technologies including diagnostics, therapeutics, vaccines, medical devices, personal protective equipment, their materials or components, and their methods and means of manufacture for the prevention, treatment or containment of COVID-19. Granting the waiver will expedite and democratize the way vaccines are produced and distributed among the world's countries.

In particular, the **waiver on Section 1** shall not be applied to the protection of Performers, Producers of Phonograms (Sound Recordings) and Broadcasting Organizations.

Moreover, the waiver, once approved, will only be in effect for three years, upon which the existence of these "exceptional circumstances" will be reviewed. The waiver will be terminated shall the body see there is no longer any need for it.⁵

NINE NEW VACCINE BILLIONAIRES¹¹

Source: OXFAM



Stephane Bancel
CEO, Moderna
(worth \$4.3 Billion)



Ugur Sahin
CEO & Co-Founder, BioNTech
(worth \$4 Billion)



Timothy Springer
Immunologist and
founding investor, Moderna
(worth \$2.2 Billion)



Noubar Afeyan
Chairman, Moderna
(worth \$1.9 Billion)



Juan Lopez Belmonte
Chairman, ROVI
(worth \$1.8 Billion)



Robert Langer
Scientist and founding investor,
Moderna
(worth \$1.6 Billion)



Zhu Tao
Co-founder and Chief Scientific
Officer, CanSino Biologics
(worth \$1.3 Billion)



Qiu Dongxu
Co-founder and Senior Vice
President, CanSino Biologics
(worth \$1.2 Billion)



Mao Huihua
Co-founder and Senior Vice
President, CanSino Biologics
(worth \$1 Billion)

EIGHT VACCINE BILLIONAIRES WITH INCREASED WEALTH^{1,2}

Source: OXFAM



Jiang Rensheng

Chair, Zhifei Biological products
2020: \$7.60 B
2021: \$24.40 B



Cyrus Poonwalla

Founder, Serum Institute, India
2020: \$8.20 B
2021: \$12.70 B



Tse Ping

Sinopharm
2020: \$7.30 B
2021: \$8.90 B



Wu Guanjiang

Co-founder, Zhifei Biological
Products
2020: \$1.80 B
2021: \$5.10 B



Thomas Struengmann

BioNTech and MegaPharma
2020: \$9.60 B
2021: \$11.00 B



Andreas Struengmann

BioNTech and MegaPharma
2020: \$9.60 B
2021: \$11.00 B



Pankaj Patel

Cadila Healthcare
2020: \$2.90 B
2021: \$5.00 B



Patrick Soong Shiong

ImmunityBio
2020: \$6.40 B
2021: \$7.50 B

VACCINE, PRICE AND PROFIT

Figure 1. COVID-19 Vaccine Supply Chain



For illustrative purposes only as the supply chain will differ across different countries.

Ninety (90) percent of the global value in vaccine manufacturing remains concentrated within four large manufacturing firms: (1) GSK; (2) Pfizer; (3) Merck; (4) Sanofi, while 60% of the global volume comes from: (1) Serum Institute of India; (2) GSK; (3) Sanofi; (4) BBIL; (5) Haffline¹².

Pfizer has forty-two (42) manufacturing sites globally, with a significant number of plants in the US. While, BioNTech has its own manufacturing plant in Germany and recently announced that they will set up a plant in Singapore, and a joint-venture with Fosun Pharma for the production and marketing of its COVID mRNA shot in China.

While this paper mainly tackles the manufacture of vaccines, the vaccine supply chain also includes transportation and logistics, and cold chain facilities. A supplementary resource on COVID-19 vaccine supply chain may be found on this site: <https://www.adb.org/multimedia/scf/#/>.

In a policy brief of The People's Vaccine, the Big Pharma charged excessive prices for COVID-19 vaccines while rich countries blocked the faster and cheaper routes to global vaccination. New estimates of the vaccine production cost for mRNA COVID vaccines suggest as little as \$1.18 per dose. Big Pharma also prioritized high-priced contracts with rich countries at the direct expense of protecting more lives in more countries. Also, Pfizer/BioNTech and Moderna allocated more than 90% of their supplies to rich countries¹³.

Important to underline is that taxpayers from wealthy countries funded the research and development for COVID-19 vaccines through private-public partnerships.

Table 1. Some of the Top Tier vaccine manufacturers who are currently producing, or under negotiation with Big Pharma for anti-COVID-19 vaccines through technology transfer

VACCINE MANUFACTURING	COUNTRY	PARTNERSHIP WITH BIG PHARMA
1. Serum Institute of India	India	AstraZeneca; Novavax; Gamaleya Institute; Bharat Biotech
2. Takeda Pharmaceutical	Japan	Moderna, Novavax
3. SK Bioscience	South Korea	AstraZeneca, Novavax, GSK
4. Biofarma	Indonesia	Sinovac
5. Incepta Vaccine Ltd.	Bangladesh	Sinopharm

Table 2. COVID-19 Vaccine inputs

CATEGORY	SUB-CATEGORY	EXAMPLES
Vaccine Manufacturing	<ul style="list-style-type: none"> • Active Ingredients • Inactive Ingredients • Other ingredients • Consumables • Equipment • Packaging 	<ul style="list-style-type: none"> • mRNA, viral vector • PEG2000-DMG, Tromethamine • Enzymes, gelatine, neomycin • Bioreactor bags, filters, reagent packs • Bioreactors, sterilizers, chromatography system • Vials, stoppers, crimp seals
Vaccine Storage and Distribution		<ul style="list-style-type: none"> • Freezers, Dry Ice
Vaccine Administration		<ul style="list-style-type: none"> • Needles, Syringes

Table 3. Estimated vaccine cost and projected revenue of known Big Pharma

PHARMA COMPANY	ESTIMATED VACCINE COST	PROJECTED REVENUE (2021)	EUA APPROVAL
Pfizer/BioNTech	\$ 19.50 per dose	\$ 33-40.2 Billion	Dec. 8, 2020 (UK)
Moderna	\$ 33-37 per dose	\$ 19.2 Billion	Dec. 11, 2020 (US)
Oxford/AstraZeneca	\$ 3-7 per dose	\$ 1.5-2.5 Billion	Dec. 18, 2020 (US)
Janssen (Johnson & Johnson)	\$ 10 per dose	\$ 2.5 Billion	Jan. 12, 2021 (EU)
Sinovac Biotech	\$13-29.75 per dose	No account, but Sinovac reported \$246.5 million of vaccine sales in 1st quarter of 2021	Feb. 27, 2021 (US)
Novavax	\$ 16 per dose	\$ 2.1 Billion (2nd half of 2021)	

Table 4. Government Funding on anti-COVID-19 vaccines

PHARMA COMPANY	AMOUNT OF FUNDING RECEIVED	FUNDING GOVERNMENT
Moderna	\$2.5 Billion (including advance purchase)	United States
Janssen Pharmaceutical	\$1 Billion	United States
Oxford/AstraZeneca	\$1.2 Billion (US) £65.5 million (UK)	United States United Kingdom
Novavax	\$1.6 Billion (including advance procurement)	United States
Sanofi and GlaxoSmith-Kline	\$2.1 Billion	United States
BioNTech	\$ 445 Million	Germany

PEOPLE'S HEALTH OVER PROFIT

In this time of public health emergency, the Big Pharma engaging in a profiteering scheme is shameless, callous, immoral, and inhumane. People in the Global South are left behind in terms of vaccine accessibility. The shortages have resulted in massive loss of lives especially among poor people, most of them have died without any medical attention in cases recorded in India¹⁶, Africa¹⁷, and in Southeast Asia¹⁸.

The TRIPS agreement is a binding treaty in which corporate power prevails, with the WTO itself enabling the profiteering scheme of the Big Pharma. The shameless display of greed continues as working people suffer enormous hardships before and during this pandemic. Testament to this are the 255 million people who have lost their jobs and are burdened by wage theft, unemployment, debt traps, homelessness, inaccessible social services, and rising cost of living.

Waiving some provisions of the TRIPS agreement is crucial for equitable access of COVID-19 vaccines and other related medical therapeutics. However, the moral and just call to scrap TRIPS remains the people's demand. We have to, once and for all, get rid of the TRIPs agreement if we truly want to speed up development, scale up vaccine manufacturing, and have equitable access to them. Not only will this benefit the poorest of the poor in the developing countries during these health emergencies, but will also pave the way to the democratization of life-saving medicines and therapies.

In conjunction, governments must also bolster the capacities of their countries' healthcare systems through the building of new hospitals, increased hiring and just compensation of health workers, and the creation of necessary infrastructures that will allow

local manufacturers to produce vaccines for the needs of the people. These should be the priorities of governments across the globe. Nations should be allowed and encouraged to develop and build their own industries that can manufacture vaccines, among other most pressing needs of the people.

This has been proven possible by Cuba's healthcare system. Despite economic blockade, the Caribbean nation-island has built one of the best healthcare systems in the world. The country has focused on primary care as the core of healthcare, effectively yielding one of the highest doctor-to-patient ratios. They also developed their own medical research and recently announced the production of the Soberana 2, their own COVID-19 vaccine which they intend to share to the world.

Now more than ever, the peoples of the world are determined to fight and end Big Pharma's monopoly control over vaccine production. Vaccines are a public good, thus private interest and corporate profits must not corrupt its availability and dictate the world's pandemic response. COVID-19 vaccines and other anti-COVID-19 medicines should be nationalized and reclaimed from corporate monopoly. The days that the TRIPS agreement secured super profits for Big Pharma, while depriving the peoples of the world of much-needed vaccines, must end.

We must be uncompromising and unwavering in engaging our nations' leaders. Their sworn responsibility is to protect the people, not corporations.

We strongly support the call to waive the patents to allow countries to manufacture their own COVID-19 vaccines free from the shackles of Big Pharma.

Yet, now is also the best time to carry on the fight for the scrapping of the TRIPS and all the patents on vaccines, therapies and medical technology.

We will continue to advance an alternative healthcare system that is free, of quality, and directly addresses the needs of the people.

We will build a future that values human life and health over profit.

ENDNOTES

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